IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.389 of 1995
Date of decision:24.10.2006

Commissioner of income Tax, Amritsar

....Petitioner

versus

M/s Partap Steel Rolling Mills, Amritsar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following question of law has been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar (for short, 'the Tribunal') arising out of its order dated 20.10.1993 in ITA No.858(ASR)/1989, for the assessment year 1983-84:-

> "Whether on the facts and in the circumstances of the case, the Tribunal was right in law in confirming the order of the CIT(Appeals), Amritsar allowing depreciation on Machinery @ 15% in respect of all the divisions except gases division?"

The assessee claimed depreciation of plant and machinery in Head Office Furnace Division, Concast Division and Gases Division at the rate of 15% treating the same as machine tools. The Assessing Officer allowed the same at the rate of 10%. The Commissioner of income Tax (Appeals) upheld the claim of the assessee on all machinery except gases division.

Learned counsel for the revenue does not dispute that the issue has been gone into by this Court in ITR No.8 of 1993 (**The Commissioner of Income Tax, Amritsar v. M/s. B.D.Aggarwal & Sons, Amritsar)** decided on 26.4.2006 and ITR No.183 of 1987 (**CIT Jalandhar v. M/s**.

Kakkar Complex Steel P.Limited, decided on 10.2.2005.

In view of the above, reference is answered against the revenue and in favour of the assessee.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

October 24,2006 (Rajesh Bindal)
'gs' Judge